

ORDINANCE NO. 19-_____

**AN ORDINANCE AMENDING TITLE 3 (BUSINESS AND LICENSE REGULATIONS),
CHAPTER 3 (LIQUOR AND TOBACCO CONTROL),
SECTION 3 (DEFINITIONS), SECTION FIVE (APPLICATION FOR LIQUOR LICENSE),
SECTION 10 (PENALTY), SECTION 11 (LIQUOR LICENSE
AND PERMIT CLASSIFICATIONS), SECTION 12 (ADDITIONAL LIQUOR LICENSE
RESTRICTIONS) and SECTION 14 (PROHIBITED ACTS AND CONDITIONS)
OF THE NAPERVILLE MUNICIPAL CODE**

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule powers that:

SECTION 1: Title 3 (Business and License Regulations), Chapter 3 (Liquor and Tobacco Control), Section 3 (Definitions) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language as follows:

3-3-3: - DEFINITIONS: For the purposes of this Chapter, the following words and phrases shall have the following meanings:

ALCOHOLIC LIQUOR * * *

BEER:	A beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt, hops in water, including elder , beer, ale, stout, lager, porter and the like.
BREWERY PUB:	A person, or other entity, who or which manufactures "beer" or "wine" as defined, only at a designated premises, for the sole purpose of sale and consumption only at and within such premises and who stores such beer at the designated premises for such sale and consumption and who is authorized to sell solely at retail.
<u>CORKAGE:</u>	<u>Optional practice of liquor licensed establishments to allow packaged wine to be brought by a customer into the premises of a Class A, B, I or J liquor licensed establishment for on-premise consumption by the customer and their dining guests in conjunction with their on-premise purchase and consumption of food provided by the establishment.</u>

CLUB through GROCERY STORE * * *

GROWLER:	A glass receptacle containing no more than two (2) liter (67.6 ounces) of craft beer or cider manufactured at the licensed premises that is sold or offered for sale at retail for consumption off premises.
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HOTEL OR MOTEL through NEGLIGENCE * * *

NIGHTCLUB:	Every building or structure used, maintained, advertised and held out as a place for nighttime entertainment offering music, dancing and requiring an entertainment permit.
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PARENT through RECKLESSLY * * *

RECREATIONAL OR LIFESTYLE AMENITIES FACILITY:	<p>Any public place kept, used, maintained, advertised and held out to the public as a place for recreational activities, <u>including, but not limited to, an art studio, indoor sports facility, golf course, bowling alley or billiards having a minimum of ten (10) regulation billiard tables, or lifestyle amenities, including a beauty shop, salon, spa, and personal cosmetic establishment facility</u> which lifestyle amenities contribute to physical or material comfort and, whether such place is <u>are open to the public in general or for paid members only.</u> that derives a At least sixty percent (60%) of the recreational facility's or ninety percent (90%) of the lifestyle amenities facility's annual revenue <u>must be</u> from sources other than the sale of alcoholic liquors, <u>and includes, but is not limited to: art studio, beauty/hair salon, indoor sports facility, golf course, bowling alley or billiards with a minimum of ten (10) regulation billiard tables.</u></p>
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RESTAURANT through VENDING MACHINE * * *

WINE:	Any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or "spirits"; includes <u>cider and Mead.</u>
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SECTION 2: Title 3 (Business and License Regulations), Chapter 3 (Liquor and Tobacco Control), Section 5 (Application for Liquor License) of the Naperville Municipal Code

is hereby amended by adding the underlined language and deleting the stricken language as follows:

3-3-5: - APPLICATION FOR LIQUOR LICENSE:

~~1. It shall be unlawful to sell or offer for sale any alcoholic liquor without having both a State of Illinois liquor license and a Naperville liquor license or if in violation of the terms of such licenses.~~

12. Applications for such Naperville liquor licenses shall be made to the local Liquor and Tobacco Control Commissioner in writing, signed by the applicant, verified by oath or affidavit, and shall provide all information as required by the City on said application as amended. All licensees must undergo fingerprinting and background checks and ~~must~~ provide evidence of dram shop insurance insuring the licensee against liability which may incur under 235 ILCS 5/6-21, specifically designating the City as an insured. The City Clerk shall keep a complete record of all liquor licenses issued.

23. ~~The first and initial license fee for new~~ annual liquor license fee for licenses issued between May 1 and October 31 of any year shall be in an amount equal to the annual liquor license fee, ~~plus a one thousand dollar (\$1,000.00) nonrefundable fee.~~ ~~This fee is to defray applicant investigation costs and is payable in one installment.~~ The initial liquor license ~~annual liquor license~~ fee for new liquor licenses issued between November 1 and April 30 for any year shall be in an amount equal to one-half (½) the annual liquor license fee, ~~plus a one thousand dollar (\$1,000.00) nonrefundable fee to defray applicant investigation costs and is payable in one installment.~~ ~~The following shall not be subject to an new initial liquor license fee:~~

In addition to annual liquor license fees, new liquor license applicants shall pay a one thousand dollar (\$1,000.00) nonrefundable liquor license application fee. This application fee is to defray administrative and investigation costs and must be paid in one installment. Liquor license renewal applicants are not subject to this application fee nor are liquor licenses applicants who seek a new liquor license for the same premises due to a change in the ownership of less than fifty percent (50%) of a corporation that was originally issued a liquor license, provided that not more than fifteen (15) days has passed between the filing of a new liquor license application and the expiration, cancellation, termination, or revocation of the original liquor license.

~~3.1. One who was already a liquor licensee in the City; or~~

~~3.2. One who is a parent, sibling, spouse, or child of a liquor licensee or a deceased licensee, provided that said license has been canceled not more than fifteen (15) days prior to the filing of a new application.~~

3.4. Once licensed, every liquor licensee shall hang a framed liquor license in a conspicuous place on the licensed premises.

45. Applications for liquor or tobacco licenses which are incomplete or inaccurate shall be rejected by the local Liquor and Tobacco Control Commissioner in in writing and set forth the deficiencies within sixty (60) days of its receipt. Prior to rejection, the applicant may submit the information required to complete the application. Any expenses incurred in reviewing incomplete or inaccurate license applications, advising the applicant of such deficiencies, and rejecting such applications shall be paid by the applicant.

56. Any sale, transfer, or assignment of more than fifty percent (50%) of the shares of a corporation shall terminate said liquor license ~~for the purpose of payment of a fee for a first and initial liquor license.~~

67. Any bankruptcy, insolvency of a liquor licensee, any sale, transfer or assignment of any copartner or copartnership interest in a license shall terminate said license ~~for the purpose of payment of a fee for a first and initial liquor license.~~

78. Licenses terminate each April 30th, any licensee may renew its license provided that it is qualified to receive a license; renewals are a privilege and not a vested right.

SECTION 3: Title 3 (Business and License Regulations), Chapter 3 (Liquor and Tobacco Control), Section 10 (Penalty) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language as follows:

3-3-10: - PENALTY:

Unless otherwise provided in this Chapter, any person violating any provision of this Chapter relating to liquor or tobacco shall be fined not less than one hundred dollars (\$100.00) nor more than five thousand dollars (\$5,000.00) for each offense. ~~Unless otherwise provided in this Chapter, any person violating any provision of this Chapter relating to tobacco shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$5,000.00) for each offense.~~ A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 4: Title 3 (Business and License Regulations), Chapter 3 (Liquor and Tobacco Control), Section 11 (Liquor License and Permit Classifications) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language as follows:

3-3-11: LIQUOR LICENSE AND PERMIT CLASSIFICATIONS:

The following are classes of liquor licenses and permits with an annual license and permit fee as indicated:

1. On-premises consumption liquor licenses:

Class A – Restaurant through Class K – Catering * * *

	<u>Class M – Recreational</u>
Requirements of Premises	Service of liquor only during the time that the recreational portion of the premises is open and available for use or with a paid lifestyle amenities service. <u>Meets “Recreational or Lifestyle Amenities Facility” definition.</u>
Container Requirements	Liquor by drink, wine by bottle/carafe, beer by pitcher not to exceed 60 oz. or by bottle not to exceed 16 oz. For lifestyle amenities facilities, wine by the drink not to exceed 6 oz. or beer by the drink not to exceed 12 oz., two drinks total per patron.
Food Requirements	May be served as long as it complies with all health regulations and licensing requirements.
Liquor Service	No outside liquor. <u>For golf courses, liquor may be served outside the physical structure but must be adjacent to and within the property lines of golf course.</u>
Hourly Restrictions	During recreational activity only or with paid lifestyle amenities service. <u>Sale and service of liquor only during the time that the recreational portion of the premises is open and available for use or with a paid lifestyle amenities service.</u>
Annual Fee	\$2,200.00
Other	Cap of 14. Certified record of annual revenue shall be included with renewal paperwork for review <u>may be requested</u> by the Liquor Commissioner. Insurance required for outside premises.

	<u>Class O – Night Club</u>
Requirements of Premises	Must meet "nightclub" definition and be located in a shopping center not less than 60,000 sq. ft.; one license per center.
Container Requirements	No restrictions.
Food Requirements	None required.
Liquor Service	Service bar by wait staff only.

Hourly Restrictions	None.
Annual Fee	\$2,100.00
Other	

**Class P through
Class T – Heritage Society Cultural**

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2. Off-Premises Consumption Liquor Licenses:

**Class D through
Class P – Manufacturer**

* * *

	<u>Class S – Specialty Wine Shop</u>
Requirements of Premises	Premises shall not exceed 1,500 sq. ft. Not less than 20% of the premises shall be designated for the sale of specialty foods.
Consumption	Off-premises, except consumption on premises of not more than 18 oz. of wine per person/day.
Container Requirements	None.
Liquor Tasting	1/month for no greater than 3 consecutive days (\$100.00/yr.) or weekly for no greater than 2 consecutive days (\$200.00/yr.)
Annual Fee	\$1,500.00
Other	<u>The Class S license is exempted from the restrictions in Section 3-3-12:7 (Downtown Establishments).</u>

	<u>Class S1</u>
Requirements of Premises	Contains all of the requirements of the Class S license and not less than 40% of the premises shall be designated for the sale of specialty foods.
Consumption	Off-premises, except consumption on premises for liquor tastings.
Container Requirements	199 ml containers must be confined to a closed display unit. All liquor products, other than wine, (bottles) bear the establishment's private label.

Liquor Tasting	1/month for no greater than 3 consecutive days (\$100.00/yr.) or weekly for no greater than 2 consecutive days (\$200.00/yr.)
Annual Fee	\$3600.00
Other	Capped at 1. <u>The Class S1 license is exempted from the restrictions in Section 3-3-12:7 (Downtown Establishments).</u>

**Class U through
Class V – Pharmacy**

* * *

3. Permits:

**Catering Permit and/or Bartending Services Permit through
Complimentary Beer/Wine Permit**

* * *

	<u>Corkage Permit</u>
<u>Requirements of Permit</u>	<u>Class A, Class B, Class I and Class J license holders only.</u>
<u>Consumption</u>	<u>On premises, service of wine must be exclusively with and incidental to the service of food.</u>
<u>Container Restrictions</u>	<u>No more than one bottle of wine not exceeding seven hundred fifty milliliters (750ml) per patron.</u>
<u>Food Service</u>	<u>Sale and service during time full meals are served and full menu is in effect.</u>
<u>Type of Liquor Service</u>	<u>Staff, employee or agent shall open and serve wine.</u>
<u>Annual Fee</u>	<u>\$0.00</u>
<u>Other</u>	<u>No customer may leave the premises with any open wine container other than a single bottle of wine secured in compliance with the requirements of Section 6-33 of the State Liquor Control Act (235 ILCS 5/6-33), as amended.</u>

**Dispenser Permit through
Entertainment Permit**

* * *

	Growler Permit
Requirements of Permit	Class B <u>and Class P</u> license holders only.
Consumption	Off premises only.
Container Restrictions	Growler shall be sanitized, sealed with a tamper proof seal. Filled and sold by an authorized, BASSET trained employee.
Food Service	None.
Type of Liquor Service	Craft beer <u>and cider</u> , manufactured at licensed premises only.
Annual Fee	\$1,000.00
Other	

**Late Night Permit through
Temporary Permit**

* * *

SECTION 5: Title 3 (Business and License Regulations), Chapter 3 (Liquor and Tobacco Control), Section 12 (Additional Liquor License Restrictions) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language as follows:

3-3-12: ADDITIONAL LIQUOR LICENSE RESTRICTIONS:

1. Liquor Sales and Service Hours:

1.1. No ~~licensee~~ license holder or late night permit holder shall sell, offer for sale, or give away any alcoholic liquor between the hours of one o'clock (1:00) a.m. and seven o'clock (7:00) a.m. on each day of the week, except on Monday through Thursday, and between 2:00 a.m. and 7:00 a.m. Saturday and Sunday when such sales shall be permitted to continue until two o'clock (2:00) a.m. All patrons and all persons other than the licensee and its employees shall leave the premises within fifteen (15) minutes of closing.

1.1.1.

* * *

1.1.2. ~~Notwithstanding the provisions of this Section, all~~ On-premises consumption liquor license holders licensees are authorized to sell alcoholic beverages between the hours of seven o'clock (7:00 a.m.) and twelve o'clock (12:00 p.m.) on Sundays in conjunction with the purchase and consumption of a meal.

1.2. In the case of restaurants, hotels, recreational and lifestyle amenities facilities, specialty markets and licensees selling packaged liquors, premises may be kept open for business after the ~~liquor sales and service hours~~ closing hours set forth herein, but no alcoholic liquor may be sold, offered for sale, or given away after ~~liquor sales and service~~ said closing hours, and no person other than the licensee and its employees ~~of the licensee~~ shall be permitted to remain in ~~the~~ that portion of the premises used for dispensation of alcoholic liquors.

1.3. All on-premises consumption licensees ~~liquor license holders~~, except a ~~Class B licensee without a late night permit or a Class J licensee~~, shall be prohibited from allowing entry or re-entry onto the premises by any patron one hour prior to the applicable liquor sales and service closing hours. ~~closing time of the premises~~.

2. **Refilling Original Liquor Packages:** No licensee ~~person licensed under this Chapter~~ shall fill or refill any original package of alcoholic liquor with the same or any other kind or quality of alcoholic liquor; and it shall be unlawful for any person to have in his possession for sale at retail any bottles, casks, or other containers containing alcoholic liquor, except in original packages, excepting vinous beverages and pitchers of beer as permitted herein.

3. **Quantity Sales For On Premises Liquor Consumption:** It shall be unlawful for a licensee, ~~other than a Class I or Class J licensee offering restaurant service, and possessing a bottle permit,~~ to sell, give away or permit to be sold, served or given away for consumption on the licensed premises any serving containing more than twenty-four (24) fluid ounces of beer or cider, six (6) ounces of wine, or three (3) ounces of spirits except wine by the bottle or carafe.

3.1. * * *

3.2. **Happy Hours Prohibited:**

3.2.1. All ~~retail liquor~~ licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof.

3.2.2. No ~~retail liquor~~ licensee or its employee, staff or agent ~~of such licensee~~ shall:

3.2.2.1. - 3.2.2.6. * * *

3.2.3. * * *

3.3 * * *

4. * * *

5. * * *

6. **Service ~~Of~~ Shots:** No ~~licensee retail liquor license holder, or late night permit holder, or~~ its employees, staff or agents, including, but not limited to, promoters, shall:

6.1. * * *

6.2. * * *

7. * * *

8. Liquor Confinement:

8.1. All ~~licensees retail liquor license holders~~ who are authorized to sell alcoholic liquor in its original package are required to have a designated confined liquor display area containing all liquor products. Any changes to the confined display area shall be approved by the Liquor Commissioner. The licensee shall post a sign within the liquor display area during those hours that liquor sales are prohibited. Displays of liquor outside the confined liquor display area are authorized subject to the following:

8.1.1.-8.1.4 * * *

9. Location Restrictions:

9.1 Unless an exception is granted by the local Liquor Commissioner, No no license nor renewal of license, other than a Class K catering license, shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school, hospital, home for the aged or for indigent persons or for veterans, their wives or children, or any military or naval station; provided that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where the church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of one hundred (100) feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

9.1.1 The local Liquor Commissioner will determine whether an exception will have a detrimental effect.

9.1.2 An applicant seeking an exception shall make a written submission to the local Liquor Commissioner, presenting all factors which the applicant believes to be relevant to whether an exception is appropriate. The applicant shall provide a copy of the written submission to the affected church, school, hospital, home for the aged or for indigent persons or for veterans, their wives or children, or any

military or naval station. Upon receiving a submission for an exception, the local Liquor Commissioner may seek additional information or supplementary proof from the applicant and may also solicit information from the community.

9.1.3 If the local Liquor Commissioner grants the application for an exception, those factors that he or she deemed relevant to the determination may be included in a plan of operation, which shall be deemed a part of the license. Failure to comply with one or more elements of the plan of operation shall subject the licensee to suspension or revocation of the liquor license.

9.42 A liquor license issued shall allow the sale of alcoholic liquor only on the premises as described in the application. Such location may be changed with a written request as approved by the local Liquor Commissioner.

9.23. No change in liquor license classification is permitted except ~~There shall not be permitted hereunder any change in liquor license designation or classification other than~~ to a restaurant classification or from a Class G - Beer and Wine Package Sale to a Class D - Package Store. The exemption extended hereunder shall terminate upon the premises' abandonment, nonuse or occupancy as a liquor licensed premises for a period exceeding ninety (90) days.

9.34. Maximum capacity or occupancy restrictions shall be established for each premises by the Naperville Fire Department and the Life Safety Code, and shall be posted in no less than two (2) prominent locations in the particular premises.

9.45. **Street View:** In premises licensed to sell alcoholic liquor for consumption on the premises (other than as a restaurant, hotel, recreational and lifestyle amenities facility, or club) nothing shall be permitted in the windows, upon the doors, or in the interior of the premises which shall prevent a clear view into the interior of the premises from the street, road or sidewalk, ~~at all times.~~ All areas where liquor is sold for consumption on the premises shall be illuminated during business hours ~~by~~ to maintain visibility at all times. If the view into any such premises is willfully obscured by the licensee, then such license shall be subject to revocation.

10. * * *

SECTION 6: Title 3 (Business and License Regulations), Chapter 3 (Liquor and Tobacco Control), Section 14 (Prohibited Acts and Conditions) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language as follows:

3-3-14: - PROHIBITED ACTS AND CONDITIONS: * * *

1. * * *

2. It shall be unlawful to sell or offer for sale any alcoholic liquor without having both a State of Illinois liquor license and a Naperville liquor license.

3. It shall be unlawful for any person operating or employed by any business establishment open to the public, except for a licensee possessing a Corkage Permit, to allow patrons to bring alcoholic liquor on to the premises for consumption therein.

42. In every place in the City where alcoholic liquor is sold, there shall be displayed at all times in a prominent place a printed card supplied by the City Clerk and which reads as follows:

WARNING TO PERSONS UNDER THE AGE OF 21 YEARS

You are subject to a fine up to five hundred dollars (\$500.00) under the ordinances of the City of Naperville if you purchase or attempt to purchase alcoholic liquor, or misrepresent your age for the purpose of purchasing or obtaining alcoholic liquor.

35. It shall be unlawful for any ~~liquor licensee~~ licensee ~~or his or her agent,~~ or its employee, staff or agent, to permit any person under the age of twenty-one (21) to be or remain in any room or compartment adjoining or adjacent to ~~in~~ the room or place where such licensed premises is located.

46. It shall be unlawful for any person ~~parent or guardian~~ to knowingly permit any person under the age of twenty-one (21) of whom ~~he or she be~~ is the parent or legal guardian of to violate any provisions of this Chapter ~~Section~~.

57. It shall be unlawful for any person under the age of twenty-one (21) to tend bar. It shall be lawful for any person eighteen (18) years of age or older to work in a licensed premises, and ~~to~~ serve alcoholic liquor.

68. Presence Restriction: * * *

79. Identification Cards: If a ~~liquor licensee,~~ licensee, ~~or its employee, staff or agent,~~ such licensee's agent or employee believes, ~~has~~ has reason to believe or should have reason to believe that a sale or delivery of alcoholic liquor is prohibited because of the nonage of the prospective recipient, such licensee, agent, staff or employee shall, before making such sale or delivery, demand presentation of some form of positive identification (containing proof of age) issued by a public officer in the performance of his official duties.

79.1. * * *

810. Consumption: * * *

810.1. Exception: * * *

810.2. Consumption By Minors: No ~~parent or other~~ person shall intentionally, knowingly, recklessly or negligently give, deliver, invite or permit the

consumption of alcoholic liquor by any person of nonage on or about any premises owned, leased or controlled by such ~~parent or~~ person except as allowed in 3-3-14:10.1.

911. Operation Of A Motor Vehicle: * * *

911.1. **Under Twenty-One (21):** * * *

911.2. **Penalties:** * * *

102. **Possession By Minors:** No ~~parent or other~~ person shall intentionally, knowingly, recklessly or negligently give or deliver alcoholic liquor to, or permit possession of alcoholic liquor by, ~~his child, or~~ any other person under the age of twenty-one (21).

12.1 The possession of alcoholic liquor by a person under the age of twenty-one (21) is prohibited, except as allowed in 3-3-14:5 or 3-3-14:10.1.

143. **Hotel And Motel Rooms:** * * *

124. **Penalty:** * * *

SECTION 7: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this ____ day of _____, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this ____ day of _____, 2019.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk